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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,715	01/17/2002	Christopher Cavallaro	B01-64	8980

7590
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04/01/2004

EXAMINER

GORDON, RAEANN

ART UNIT PAPER NUMBER

3711

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/051,715

Applicant(s)

CAVALLARO ET AL.

Examiner

Raeann Gorden

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-16,18-21,23,25,26 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-16,18-21,23,31 and 32 is/are rejected.
- 7) ☒ Claim(s) 8,25,26 and 28-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the inner and outer cover layers comprising a polybutadiene rubber composition comprising 2.2 to 5 parts of a halogenated organosulfur compound is included in original claim 13 but cannot be found in the specification. Applicant is required to add the subject matter to the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-16, 18-20, 31, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 13, 18, and 19, the claims depend from base claim 1, which limits the center to a polybutadiene with a polydispersity of 2 or less. However the claims 13, 18, and 19 disclose a "first polybutadiene" that may be present in the center. Is the same polybutadiene with the polydispersity less than 2 or does the center include a second polybutadiene. Regarding claim 32, the claimed hardness (30-60) is outside the hardness range (60-72) claimed in base claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 9-12, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin (5,779,562) in view of Binette et al (6,315,684). Regarding claim 1, Melvin discloses a golf ball comprising a two-layer core and a two-layer cover. The center core has a diameter from 10 to 35 mm or 0.39 to 1.38 inches (col. 9, line 22). The outer core layer has a diameter from 30 to 40 mm or 1.18 to 1.57 inches (col. 9, lines 24-26). The inner cover layer has a thickness from 0.01 to 0.10 inch, which provide a diameter from 1.2 to 1.77 inches (col. 12, lines 30-32). The inner cover layer has a Shore D hardness of 60 or more (col. 12, lines 33-34). The inner cover is harder than the core. The core has a Shore C hardness less than 80 (52 Shore D) and the inner cover layer has a Shore D hardness of 60 or more (fig 1, col. 9, lines 37-43). The outer cover layer has a Shore D hardness of 55 or less (col. 15, line 11). In regards to the material hardness less than 50 Shore D, the limitation is not relevant to the final product. Melvin discloses the core may be made from polybutadiene but does not disclose specific type with a polydispersity less than 2. However, Binette teaches a four-piece golf ball wherein the core material has a polydispersity from 1.9 to 3.9 and sites Cariflex BCP as an example. Applicant also sites Cariflex BCP as an option for the center (spec 4). Since the materials for the center are identical the deflection

greater than 4.5 mm would also be identical. Regarding claim 2, the inner cover layer has a Shore D hardness of 60 or more (col. 12, lines 33-34). Regarding claim 3, the inner cover layer has a thickness from 0.01 to 0.10 inch, which provide a diameter from 1.2 to 1.77 inches (col. 12, lines 30-32). Regarding claims 4 and 5, the center core has a diameter from 10 to 35 mm or 0.39 to 1.38 inches (col. 9, line 22). Regarding claim 6, the outer core layer has a diameter from 30 to 40 mm or 1.18 to 1.57 inches (col. 9, lines 24-26). Regarding claim 9, the outer cover is softer than the inner cover layer (abstract). Regarding claim 10, the center is solid. Regarding claim 11, the inner cover layer has a thickness from 0.01 to 0.10 inch. Regarding claim 12, the inner cover layer is made form ionomers. Regarding claims 21 and 23, the core has a PGA compression less than 70 (col. 9, lines 36-40). One of ordinary skill in the art would have modified Melvin in view of Binette to enhance the COR (see Binette col. 6).

Response to Arguments

Applicant's arguments, see paper #7, filed 12-15-03, with respect to claim 1 have been fully considered and are persuasive. The prior art rejections over Hayashi has been withdrawn. Applicant has amended claim 1 to include subject matter that overcomes Hayashi and Melvin. Referring to claim 1, Hayashi fails to disclose or failry suggest 1) an inner cover material hardness between 60 and 72, 2) the inner cover layer harder than the inner and outer core layers, and 3) a polybutadiene for the center with a polydispersity less than 2.

Applicant's arguments, see paper #7 filed 12-15-03, with respect to the rejection(s) of claim(s) 1, 3-6, 9-12, 21, and 23 under Melvin have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Melvin and Binette.

Allowable Subject Matter

Claims 8, 25, 26, 28, 29, 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

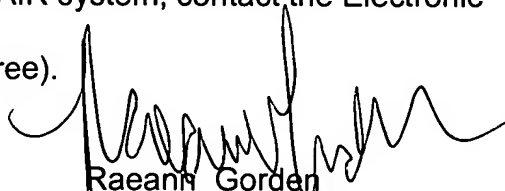
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raeann Gorden
Examiner
Art Unit 3711

Rg
March 18, 2004